
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

DANNY SELLERS,

Plaintiff,

versus

CHARLES E. SAMUELS, JR., *et al.*,

Defendants.

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CIVIL ACTION NO. 1:13-CV-347

MEMORANDUM OPINION AND ORDER

Plaintiff Danny Sellers, an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this complaint against prison officials.

Discussion

A final judgment was entered on November 18, 2013, dismissing the above-styled action without prejudice. Plaintiff has filed a motion for relief from judgment (docket entry no. 10). This memorandum considers such motion.

Analysis

FED. R. CIV. P. 59 provides in pertinent part the following:

(a)(1) *Grounds for New Trial*. The court may, on motion, grant a new trial on all or some of the issues - and to any party - as follows:

- (A) after a jury trial, for any of reason for which a new trial has heretofore been granted in an action at law in federal court; or
- (B) after a nonjury trial, for any reason for which a rehearing has heretofore been granted in a suit in equity in federal court.

(2) *Further Action After a Nonjury Trial*. After a nonjury trial the court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment.

(e) *Motion to Alter or Amend Judgment*. A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.

Rule 60(b), FED. R. CIV. P., provides in pertinent part:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud ..., misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

Plaintiff contends the judgment is void because the Court lacked subject-matter jurisdiction. After careful consideration of Plaintiff's motion, the court is of the opinion that the motion fails to set forth a meritorious ground warranting relief from the judgment. Even affording Plaintiff's motion review under Rule 60, the motion is without merit. Accordingly, Plaintiff's motion should be denied.

ORDER

For the reasons set forth above, Plaintiff's motion for relief from judgment should be denied. It is therefore,

ORDERED that Plaintiff's motion for relief from judgment is **DENIED**.

Signed this date.

Aug 1, 2014



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE